

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: August 7, 2003

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA03-0052 for Variance

PROPOSAL: A request for approval of a Variance for a 5 rear yard setback, in lieu of the required 15 ft. rear yard setback, in conjunction with attaching an existing detached garage at that 5' distance on a corner lot to the existing home, plus a front yard variance from 17.5' (based on "lot averaging") to a proposed 15', for another element of the proposed single family home addition at 11892 Wallingsford.

LOCATION: 11892 Wallingsford/Los Alamitos/Rossmoor; 2nd Supervisorial District.

APPLICANT: Mark and Catherine Kaiser, property owners

STAFF J. Alfred Swanek, Project Manager
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SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA03-0052 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND

The applicant requests a Variance to construct a 775 sq. ft. single story room addition to an existing single family home originally built in the early 1960s. Most of the addition (395 sq. ft.) would be a non-livable additional 1-car garage plus storage space. This addition entails connecting the existing home to a currently detached 2-car garage, located 5' from the rear yard on this corner lot. The proposed addition would thus create a new rear yard setback of 5' for the combined garage/home, in lieu of the required 15 ft. rear yard setback. In addition, the applicant proposes a small portion of the addition to encroach into the front yard setback. The front yard setback proposed is 15'.

The subject property is 7,750 sq. ft. in size, and is a rectangle averaging 75 feet wide and 101 feet deep. It is a corner lot.

Rossmoor Development Standards Background:

Because of numerous variance requests approved generally after 1960 to address room additions to then-existing homes, and with the support of the Rossmoor HOA, a zone change affecting all residential properties in Rossmoor was approved by the Board of Supervisors (Ordinance No. 3557) on November

20, 1985. This zone change established a rear yard setback of 15 feet, with a condition that all structures located between 25 feet and 15 feet from the rear property line be limited to a height of 17 feet.

As Rossmoor became more desirable as a residential community during the late 1980s, multi-story residential additions then began to appear. The Rossmoor HOA had concerns that with the community's R1 zoning and its 35 feet building height limit. At the request of the Rossmoor HOA, the Board of Supervisors approved a second community zone change (Ordinance No. 3849) on November 13, 1991. This zone change established a building height limit of 28 feet. The 28 feet height limit would permit the addition of an additional story to homes to the existing single story homes, but would effectively curtail the construction of three-story additions.

SITE ZONING AND SURROUNDING LAND USE

The subject property is thus zoned R1/28 "Conditional", intended for medium density single family detached residential neighborhoods, with a varying height limit, being 28 feet for elements of homes kept 25 feet from the rear property line, and 17 feet for those portions of homes less than 25 but more than 15 feet from the rear height limit. The proposed addition will have its gable match the existing house and is 15 feet in height. All surrounding property is also zoned R1/28 and developed with single family homes.

Direction	Land Use Designation	Existing Land Use
Project Site	R1-Cond. "Single Family Residential"	Single family dwelling
North	R1-Cond. "Single Family Residential"	Single family dwelling
South	R1-Cond. "Single Family Residential"	Single family dwelling
East	R1-Cond. "Single Family Residential"	Single family dwelling
West	R1-Cond. "Single Family Residential"	Single family dwelling

CEQA COMPLIANCE

The project has been determined to be Categorically Exempt from CEQA, Class 1 [CEQA Guidelines Section 15301 (e)] for additions to existing structures provided that the addition will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The determination that the subject request is Categorically Exempt from the requirements of CEQA must be made prior to project approval, with a finding to that effect by the Zoning Administrator. Recommended text is provided with Findings included as Appendix A.

PUBLIC NOTICES AND COMMENTS RECEIVED

Public notices were mailed to all owners of record within 300 ft. of the subject property, and were posted in front of the site and at 2 other public locations within the County, at least ten days prior to this public

hearing, as required by law. Copies of the planning application and sets of plans for the proposed project were distributed to the Rossmoor Homeowners Association and to County divisions for review and comment. The Homeowners Association at first objected to the request based on their understanding that the applicant was planning on “indenting” all of his garage doors. Upon clarifying this matter, the Chair of the Community Standards Committee informed staff they no longer had any objections to any element of the proposal (see attached correspondence). As of the time this report was written, staff had not received any public comments in opposition to the proposed project in response to the Public Notice.

ANALYSIS

Staff researched past corner lot variances approved in the general vicinity of the subject property, and identified many variances for rear yards, all involving connecting single family homes to pre-existing detached garages. This proposal is typical of those previous approvals. The last approvals of a similar rear yard variance proposal were PA02-0082, PA02-0036 and PA02-0009. Since the garage would be attached to the dwelling, a setback of 15 feet is required. While the total new structure (garage, addition and existing dwelling) will be 5 feet from the rear property line, the actual new addition to the dwelling is 20 feet from the property line and otherwise in compliance with the rear yard setback. Since this variance procedure has been approved in the past throughout Rossmoor and because the proposal would not have an effect on the property to the rear or any property in the vicinity of the site, staff supports the applicant's rear yard variance request.

Staff can find no recent examples of front yard variances being granted on corner lots. However, there is precedent. Several blocks away a virtually identical front yard variance (VA83-04) was granted to 11782 Argyle, again a corner lot on which it was found the house would be more in line with others further down the street, with a 15' front yard setback. In the current instance, the home is 20' from the front property line. The other homes along Wallingsford are at 15' from the front property line, by virtue of other variances granted tract by tract to the original Rossmoor developer/builder. The applicant proposes to be “in line” with those homes, thus requiring a front yard variance from 17.5' (based on “lot averaging”) to that 15'.

Staff believes approval of the requested variances would not constitute the granting of special privileges inconsistent with the limitations placed upon other property in the area, because, as described above, other similar variances for corner lots have been granted either recently in the vicinity or in the past in the larger Rossmoor community. Staff also believes that there are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations, in that the property is not a pure rectangle but has a rounded corner cutoff, reducing the owner's flexibility in terms of site layout.

However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site, being a non-rectangular lot shape and corner lot configuration which, when applicable zoning regulations are strictly applied,

deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.

2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

In terms of compliance with the findings required for all discretionary projects, the proposed project is otherwise consistent with the land uses and density of development allowed by the County's General Plan, and will not be incompatible with surrounding land uses.

RECOMMENDATION

The Planning and Development Services Department, Current Planning Services Division, recommends that the Zoning Administrator:

- a. Receive the staff presentation and public testimony as appropriate; and
- b. Approve the requested Variance Application (PA03-0052), subject to the attached findings and conditions.

Respectfully submitted,

Chad Brown, Chief
Site Planning

APPEAL PROCEDURE

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.

ATTACHMENTS

- APPENDIX A. Recommended Findings
- APPENDIX B. Recommended Conditions of Approval

EXHIBITS

- EXHIBIT A. Applicant's Letter of Explanation/Justification
- EXHIBIT B. Site Photos
- EXHIBIT C. Project Plans

Appendix A Findings PA030052

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| AA01 | 1 | GENERAL PLAN | PA030052 | |
| That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law. | | | | |
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| AA02 | 2 | ZONING | PA030052 | |
| That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property. | | | | |
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| AA03 | 3 | COMPATIBILITY | PA030052 | |
| That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity. | | | | |
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| AA04 | 4 | GENERAL WELFARE | PA030052 | |
| That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare. | | | | |
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| AA05 | 5 | PUBLIC FACILITIES | PA030052 | |
| That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.). | | | | |
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| ED04 | 6 | CATEGORICALLY EXEMPT | PA030052 | |
| That the proposed project is Categorically Exempt (Class 5) from the provisions of CEQA. | | | | |
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| VA01 | 7 | VARIANCE 1 | PA030052 | (Custom) |
| That there are special circumstances applicable to the subject building site being a non-rectangular lot shape and corner lot configuration which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. | | | | |
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| VA02 | 8 | VARIANCE 2 | PA030052 | |
| That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with. | | | | |

Appendix B

Conditions of Approval

PA030052

Z01 1 CP CP BASIC/ZONING REG PA030052

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

Z02 2 CP CP BASIC/TIME LIMIT PA030052

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

Z03 3 CP CP BASIC/PRECISE PLAN PA030052

Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

Z04 4 CP CP BASIC/COMPLIANCE PA030052

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

Z05 5 CP NA BASIC/OBLIGATIONS PA030052

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which the county may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

Z06 6 CP NA BASIC/APPEAL EXACTIONS PA030052

Pursuant to Government Code Section 66020, the applicant is informed that the 90-day period in which the applicant may protest the fees, dedications, reservation or other extraction imposed on this project through the conditions of approval has begun.